

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

FAIRFIELD-SUISUN UNIFIED SCHOOL
DISTRICT.

OAH Case No. 2014110073

ORDER GRANTING IN PART
REQUEST FOR CONTINUANCE AND
SETTING MEDIATION, PREHEARING
CONFERENCE AND DUE PROCESS
HEARING

On October 27, 2014, Mother on behalf of Student filed a request for due process hearing (complaint) in this matter, and amended the complaint on November 13, 2014. On December 12, 2014, the hearing was continued at Mother's request for more than three months, to March 17, 2014, so that Mother could seek counsel. On March 6, 2015, at a prehearing conference, Mother again sought to continue the hearing, on the grounds that the parties wished to mediate (which they had not previously agreed to) and that a new assessment might help facilitate settlement talks. OAH continued the hearing to April 14-16, 2015.

On March 10, 2015, the law firm of Ruderman & Knox, LLP, filed an appearance on behalf of Student. On March 30, 2015, the parties jointly moved for another continuance, for the same reasons urged by Mother on March 6, 2015. The parties seek hearing dates in the last week of May 2015.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted in part. All dates are vacated. The parties' proposed mediation date is adopted. The fact that Student obtained counsel on March 10, 2015, does furnish good cause for some continuance. However, the third and lengthy continuance of the due process hearing the parties now seek would unduly delay this already oft-delayed matter and would be inconsistent with Congress's intent that special education due process matters be promptly resolved. The hearing date set herein will allow counsel ample time to prepare for the hearing. This matter will therefore be set as follows:

Mediation:	April 15, 2015, at 9:30 AM
Prehearing Conference:	April 24, 2015, at 1:00 PM
Due Process Hearing:	April 28 and 29, 2015, at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

DATE: March 30, 2015

/s/

CHARLES MARSON
Acting Presiding Administrative Law Judge
Office of Administrative Hearings